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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,068	01/20/2004	Owen Bradley	31461-1001	4576

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PEACOCK MYERS, P.C.  
201 THIRD STREET, N.W.  
SUITE 1340  
ALBUQUERQUE, NM 87102

EXAMINER

GUTMAN, HILARY L

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 03/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/762,068	<b>Applicant(s)</b> BRADLEY, OWEN	
	<b>Examiner</b> Hilary Gutman	<b>Art Unit</b> 3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "said file cabinet" in line 2 and "said cabinet" in line 6.

There is insufficient antecedent basis for this limitation in the claim.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4, 6, 7, 11, 12 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petersen et al. (DE 19947177A1) in view of McNew (US Patent 4,986,589).

Petersen et al. disclose a cabinet seat support for use in a vehicle having a cab with a seat and floor, said cabinet comprising: a base (3); upstanding sidewalls (3) forming an enclosure (Fig. 5); and a drawer (4); said cabinet disposed between the cab seat (2) and the floor (Fig. 4) and supporting the cab seat (Figs. 4 and 5). Regarding claim 3, Petersen et al. disclose that the drawer can be opened from either side of the seat (Figs. 1 and 4). Regarding claim 4, Petersen et

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al. disclose a small compartment (5) for holding objects. Regarding claim 7, fasteners connecting the cabinet (3) to the cab floor and to the seat (2) would have been inherent. Regarding claim 9, Hofmann et al. disclose that the top of the cabinet include a tabletop (20- although the element 20 is described as a load floor is a flat surface which is capable of functioning as a table top). Regarding claim 11, Petersen et al. disclose that the cabinet (3) is integral to the seat (Fig. 5).

Petersen et al. do not disclose that the cab seat is a front (claim 1) passenger seat (claim 2) or that the drawer comprises a file compartment (claim 1) with a plurality of fasteners to position files. Petersen et al. do disclose a compartment (5) for holding objects which is connected to the drawer.

Regarding the limitation that the seat is a front passenger seat. Petersen et al. disclose in the English language abstract that the storage device can be extended into a free space formed between two neighboring seats. It would have been obvious to one of ordinary skill in the art at the time of the invention to make neighboring seats the front seats. The motivation would have been to allow access to the storage drawer when only the operator is in the vehicle.

McNew discloses a filing cabinet for use in a vehicle which is accessible by the vehicle operator without the operator having to exit the vehicle. McNew discloses that the file cabinet is used to store work orders, invoices, etc. Regarding claim 12, McNew discloses that the filing cabinet includes a lock

Petersen et al. and McNew are analogous art because they are from the same field of endeavor, i.e., vehicle storage devices.

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At the time of the invention, it would have been obvious to one of ordinary skill in the art to use the storage compartment of Petersen et al. as a file cabinet as taught by McNew.

The motivation would have been to have a storage drawer which is easily accessible by the operator of the vehicle without the operator having to get out of the vehicle and which allows the vehicle operator to store work orders, invoices, etc. in the vehicle.

Therefore, it would have been obvious to combine McNew with Petersen et al. to obtain the invention as specified in claims 1-4, 7, 11, 12 and 15.

Regarding claim 6, it would have been obvious to use the seat system of Petersen et al. as modified in a vehicle meeting the requirements of DOT classes 6-9. The motivation would have been to allow the work storage cabinet to be used in a wide variety of work vehicles.

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Petersen et al. in view of McNew as applied to claims 1-4 above, and further in view of Pearse et al. (US Patent 6,488,327).

Petersen et al. as modified disclose the cabinet of claim 4.

Petersen et al. as modified do not disclose that the small compartment is on the face of the drawer.

Pearse et al. disclose an under seat storage compartment with a small compartment on a surface of the opening for the storage compartment.

Petersen et al. as modified and Pearse et al. are analogous art because they are from the same field of endeavor, i.e., under seat storage compartments.

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At the time of the invention, it would have been obvious to one of ordinary skill in the art to include a small storage compartment on the face of the drawer.

The motivation would have been to securely store small items so that they do not get lost in the relatively large expanse of the drawer.

Therefore, it would have been obvious to combine Pearse et al. with Petersen et al. as modified to obtain the invention as specified in claim 5.

6. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petersen in view of McNew as applied to claims 1-4, 6 and 7 above, and further in view of Hofmann et al.

Petersen et al. as modified disclose the cabinet of claim 7.

Petersen et al. as modified do not disclose that the seat can pivot forward to allow access to the cabinet top or that the back rest folds forward to provide a flat surface.

Hofmann et al. disclose an under seat storage compartment with a drawer that can be opened from either side of the seating structure and in which the seat pivots forward to allow the cabinet top to be used as a flat surface and in which the seat back pivots forward to allow the seat back to be used as a table surface.

Petersen et al. as modified and Hofmann et al. are analogous art because they are from the same field of endeavor, i.e., under seat storage compartments.

At the time of the invention, it would have been obvious to one of ordinary skill in the art to allow the seat to pivot forward and to allow the seat back to pivot forward.

The motivation would have been to allow the cabinet top or the seat back to be used as a writing surface.

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Therefore, it would have been obvious to combine Hofmann et al. with Petersen et al. as modified to obtain the invention as specified in claims 8-10.

7. Claims 12, 13, 14, 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petersen et al. in view of McNew as applied to claims 1-4, 6, 7 and 11 above, and further in view of Carico (US Patent 5,895,086).

Petersen et al. as modified disclose the cabinet of claims 1-4 and 6, 7 and 11.

Petersen et al. do not disclose that the drawer includes a lock which is operable in response to vehicle conditions.

Carico discloses an under seat storage compartment with a lock which is operable in response to vehicle conditions (it is similar to a vehicle door lock).

Petersen et al. as modified and Carico are analogous art because they are from the same field of endeavor, i.e., under seat storage compartments.

At the time of the invention, it would have been obvious to one of ordinary skill in the art to include a lock which is operable in response to vehicle conditions. The motivation would have been to ensure that the cabinet is accessible only under safe conditions and provides theft protection.

Therefore, it would have been obvious to combine Carico with Petersen et al. as modified to obtain the invention as specified in claims 13, 14 and 16-20.

#### ***Response to Arguments***

8. Applicant's arguments with respect to claims 1-15 and 17-20 have been considered but are moot in view of the new ground(s) of rejection.

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With regard to claim 16, applicant's arguments filed 3/2/06 have been fully considered but they are not persuasive.

Specifically, with regard to Petersen et al. applicant states that the reference does not disclose a cabinet and that the "storage device" mechanism does not constitute a drawer. The examiner disagrees. Merriam Webster's Collegiate Dictionary 10<sup>th</sup> edition broadly defines a "cabinet" as a "console" and the Petersen et al. reference clearly shows a console. Therefore the reference includes all of the limitations of the claim as broadly recited and interpreted.

Furthermore, applicant states the "storage device" is attachable to the floor of the cab but is not attached to a seat support. The examiner disagrees and believes the storage device is indeed indirectly attached to the seat support.

Furthermore, specifically with regard to claim 16, the applicant states that Carico does not discuss what vehicle conditions cause operation of the lock. The reference clearly discloses the lock functioning and operating as a conventional vehicle door lock which is well known in the prior art. Some references (7,010,402 to Flick; 6,980,094 to Matsubara et al.; 6,980,082 to Ueda et al.; and 6,976,726 to Hirota et al.) have been cited to shown the state of the art of the conventional and well known vehicle door locks.

With regard to the third full paragraph on page 8 of the response, applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.



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Applicant further states (on the fourth full paragraph of page 8) that claim 16 has been amended to "add clarifying language regarding the formation of the enclosure. The examiner can find no evidence of such an amendment for this claim.

***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hilary Gutman whose telephone number is (571) 272-6662.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, D. Glenn Dayoan can be reached on (571) 272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Hilary Gutman  
March 23, 2006